



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1998

Captain Robert Taylor
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR98-2087

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118556.

The City of Amarillo Police Department received a request for "any and all records pertaining to and/or naming [a named individual] as a suspect, witness, or complainant." You express concern that the request in effect seeks the named individual's criminal history and thus implicates that individual's privacy rights.

Section 552.101 of the Government Code, protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

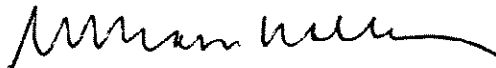
A law enforcement agency's release of records responsive to a general request for law enforcement information about a particular individual's criminal history would violate that individual's common-law privacy rights. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 179 and 188 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also, United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). Therefore you may not release any records you may have that are responsive to the part of the request asking for records pertaining to the individual as a suspect.

However, the parts of the request asking for records on the individual as a witness or complainant do not ask for criminal history subject to common-law privacy protection. As

you have raised no other exceptions to the release of records responsive to this aspect of the request, records you have which name the individual as a witness or complainant must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'William Walker', with a long horizontal flourish extending to the right.

William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 118556

Enclosures: Submitted documents

cc: Ms. Sheri Harris
Packard, Ries, Bednarz & Johnson
500 S. Taylor, Suite 900
Amarillo, Texas 79101-2445
(w/o enclosures)